

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;

Plaintiff,

vs.

HAWAIIAN EXPRESS SERVICE,  
INC., et al.,

Defendants.

) CIVIL NO. CV03-00385 SOM-LEK  
 ) (Copyright)  
 )  
 ) **DECLARATION OF DAMIAN D.**  
 ) **CAPOZZOLA IN SUPPORT OF**  
 ) **PCT'S ERRATA RE OPPOSITION**  
 ) **TO PLAINTIFF WAYNE BERRY'S**  
 ) **MOTION FOR**  
 ) **RECONSIDERATION OR IN THE**  
 ) **ALTERNATIVE RULE 60(b)**  
 ) **RELIEF FOR FRAUD ON THE**  
 ) **COURT**

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Hearing: February 24, 2006, 2:00 pm  
Judge: Hon. Susan Oki Mollway  
Trial Date: February 28, 2006

**DECLARATION OF DAMIAN D. CAPOZZOLA**

I, DAMIAN D. CAPOZZOLA, declare that:

1. I am an attorney at the law firm of KIRKLAND & ELLIS, LLP, attorneys for Defendant PCT, and I am duly authorized to make this affidavit.
2. I am licensed to practice law in the State of California (SBN 186412) and have been admitted pro hac vice in this case. I know the following to be true through my work in this case. If called upon to do so I could and would competently testify as follows.
3. My February 17, 2006 Declaration in connection with the above-captioned motion contained Exhibits A through H.
4. Attached hereto as Supplemental Ex. D is a true and correct copy of relevant excerpts from Mark Dillon's December 18, 2003 discovery response.
5. Attached hereto as Ex. I are true and correct copies of e-mails between counsel dated February 8, 2006.

So sworn under penalty of perjury under the laws of the United States of America in Honolulu, Hawaii on February 21, 2006.

  
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Damian D. Capozzola